

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

WINC, INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No.: 22-11238 (LSS)  
(Jointly Administered)

**Hearing Date: February 23, 2023 @ 2:00 pm  
Objection Deadline: January 27, 2023 @ 4:00 pm**

**APPLICATION FOR AN ORDER  
AUTHORIZING THE EMPLOYMENT AND RETENTION OF  
ARENTFOX SCHIFF LLP AS COUNSEL FOR THE OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS NUNC PRO TUNC TO DECEMBER 15, 2022**

The Official Committee of Unsecured Creditors (the “Committee”) of Winc, Inc., *et al.* and its debtor affiliates (collectively, the “Debtors”) appointed pursuant to section 1102 of title 11 of the United States Code §§ 101 *et seq.* (the “Bankruptcy Code”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”) hereby submits this application (the “Application”) for entry of an order authorizing the employment and retention of ArentFox Schiff LLP (“ArentFox Schiff”) as counsel to the Committee, *nunc pro tunc* to December 15, 2022, pursuant to sections 328(a) and 1103(a) of the Bankruptcy Code and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2014-1 of the Local Rules for the United Bankruptcy Court for the District of Delaware (the “Local Bankruptcy Rules”), and the *Appendix B – Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C § 330 by Attorneys in Larger Chapter 11 Cases*, issued by the Executive Office for the United States Trustee, effective as of November 1, 2013 (the “U.S. Trustee Guidelines”). In support of the Application, the Committee submits the Declaration of George P. Angelich, Esq. (the “Angelich Declaration”) and the declaration of John Pittman, on

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Winc, Inc. (8960); BWSC, LLC (0899); and Winc Lost Poet, LLC (N/A). The Debtors’ mailing address for purposes of these chapter 11 cases is 1751 Berkeley Street, Studio 3, Santa Monica, CA 90404.

behalf of FedEx Corporate Services, Inc., the Committee chair, (the “Pittman Declaration”, together with the Angelich Declaration, the “Declarations”) annexed hereto as **Exhibit A** and **Exhibit B**, and incorporated herein by reference, and respectfully represents as follows:

**BACKGROUND**

1. On November 30, 2022, (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “Court”).
2. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases.
3. On December 15, 2022, the Office of United States Trustee for Region 3 (the “U.S. Trustee”) appointed an Official Committee pursuant to sections 1102(a) and 1102(b) of the Bankruptcy Code. A list of the members of the Committee is annexed hereto as **Exhibit C**. The Committee selected FedEx Corporate Services, Inc. as its Chair.
4. On or about December 15, 2022, the Committee selected and formally voted to retain ArentFox Schiff as its proposed counsel and A.M. Saccullo Legal, LLC as its proposed local counsel, subject to the approval of the Court.
5. On or about December 20, 2022, the Committee selected and formally voted to retain CohnReznick LLP (“CohnReznick”) as its proposed financial advisor, subject to the approval of the Court. The Committee’s application for retention of CohnReznick will be filed separately.

**JURISDICTION AND VENUE**

6. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334(b). Venue of these proceedings is proper in this Judicial District pursuant to 28

U.S.C. §§ 1408 and 1409. Sections 1103(a), 328(a), 330 and 504 of the Bankruptcy Code, Bankruptcy Rules 2014(a), 2016 and 5002, and Local Bankruptcy Rule 2014-1 are the statutory predicates for the relief sought by this Application.

**RELIEF REQUESTED**

7. The Committee seeks to employ ArentFox Schiff as its counsel in these Chapter 11 Cases. ArentFox Schiff maintains an office for the practice of law at 1301 Avenue of the Americas, New York, New York 10019, as well as offices in Washington, DC; Los Angeles, CA; San Francisco, CA; Boston, MA; Chicago, IL; Lake Forest; and Ann Arbor, MI.

8. The Committee selected ArentFox Schiff because its partners and associates have considerable expertise in the fields of bankruptcy, insolvency, debtors' and creditors' rights, debt restructuring and corporate reorganizations, commercial and bankruptcy litigation, corporate trust and public debt, and intellectual property, together with a strong and well-respected national practice representing creditors' committees throughout the United States. Accordingly, the Committee believes that ArentFox Schiff is well-qualified to represent it in these Chapter 11 Cases. The Committee believes that ArentFox Schiff possesses extensive knowledge and experience in the areas of law relevant to these Chapter 11 Cases.

9. George P. Angelich, Esq. and Justin A. Kesselman, Esq. will be primarily responsible for ArentFox Schiff's representation of the Committee in these matters.

10. Mr. Angelich is a partner in ArentFox Schiff's Bankruptcy and Financial Restructuring Group and has extensive experience in all aspects of financial restructuring and bankruptcy issues. Mr. Angelich's practice focuses primarily on matters in chapter 11 representations, and he has significant experience in corporate bankruptcies. He also has significant experience representing unsecured creditors' committees throughout the United States

as well as creditors, debtors, landlords and other constituencies. Mr. Angelich received his J.D. from Duquesne University School of Law and his B.A. from Duquesne University.

11. Mr. Kesselman is a partner in ArentFox Schiff's Bankruptcy and Financial Restructuring Group and has extensive experience in financial restructuring, bankruptcy issues, and commercial litigation. He has represented trustees, unsecured creditor committees, secured lenders, landlords, debtors, and assignees in a wide range of distressed situations. Mr. Kesselman received his J.D. from New England Law and his B.A. from University of Massachusetts, Amherst.

12. The professional services ArentFox Schiff will be required to render include, but are not limited to, the following:

- (a) to advise the Committee of its rights, duties, and powers in these Chapter 11 Cases;
- (b) to assist, advise, and represent the Committee in its consultation with the Debtors relative to the administration of these Chapter 11 Cases;
- (c) to assist, advise, and represent the Committee in analyzing the Debtors' assets and liabilities, investigating the extent and validity of liens and participating in and reviewing any proposed asset sales or dispositions;
- (d) to attend meetings and negotiate with the representatives of the Debtors and secured creditors and other parties-in-interest;
- (e) to assist and advise the Committee in its examination, investigation, and analysis of the conduct of the Debtors' affairs;
- (f) to assist the Committee in the review, analysis, and negotiation of any plan of reorganization or liquidation that may be filed and to assist the Committee in the review, analysis, and negotiation of the disclosure statement accompanying any plan of reorganization or liquidation;
- (g) to assist the Committee in the review, analysis, and negotiation of any financing or funding agreements;
- (h) to take all necessary actions to protect and preserve the interests of unsecured creditors, including, without limitation, the prosecution of actions on behalf of the Committee, negotiations concerning all litigation

in which the Debtors are involved, and review and analysis of all claims filed against the Debtors' estates;

- (i) to generally prepare on behalf of the Committee all necessary motions, applications, answers, orders, reports, and papers in support of positions taken by the Committee;
- (j) to appear, as appropriate, before this Court, the appellate courts, and other courts in which matters may be heard and to protect the interests of the Committee before said courts and the United States Trustee;
- (k) to perform such other legal services as may be required or deemed to be in the interests of the Committee; and
- (l) to perform all other necessary legal services in these Chapter 11 Cases.

13. Due to the potentially complex nature of these Chapter 11 Cases, the full extent of services that the Committee will require or ask ArentFox Schiff to provide is not known at this time. Accordingly, in addition to those services outlined above, ArentFox Schiff may provide such other and further services as is necessary for the Committee to fulfill its statutory and fiduciary duties in these cases.

14. ArentFox Schiff has indicated a willingness to act on behalf of the Committee and render the necessary professional services as counsel for the Committee.

15. Subject to this Court's approval in accordance with section 330(a) of the Bankruptcy Code, ArentFox Schiff will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates for services of this type and nature and for this type of matter in effect on the date such services are rendered. Additionally, ArentFox Schiff will seek reimbursement for its actual, reasonable, and necessary out-of-pocket disbursements incurred in connection with the representation.

16. The following are the current hourly rates ArentFox Schiff will charge in this case, which are consistent with ArentFox Schiff's hourly rates for work of this nature for both bankruptcy clients and non-bankruptcy clients:

(a)	Partners:	\$665 - \$1,310
(b)	Of Counsel:	\$635 - \$1,220
(c)	Associates:	\$515 - \$795
(d)	Paraprofessionals:	\$165 - \$450

17. The rates set forth above are subject to periodic review and adjustment and are set at a level designed to compensate ArentFox Schiff fairly for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. Generally, the rates are subject to an increase at the beginning of each calendar year. It is ArentFox Schiff's policy to charge its clients in all areas of practice for all other expenses incurred in connection with their clients' cases. The expenses charged to clients include, among other things, telecommunications, express mail, messenger services, photocopying costs, travel expenses, working meals, computerized research, and transcription costs. ArentFox Schiff will charge the Debtors' estates for these expenses in a manner and at rates consistent with charges made generally to ArentFox Schiff's other clients. ArentFox Schiff believes that it is fairer to charge these expenses to the clients incurring them than to increase the hourly rates and spread the expenses among all clients.

18. ArentFox Schiff will apply to the Court for allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and applicable procedures and Orders of this Court. Compensation will be payable to ArentFox Schiff in compliance with the above rules and provisions, on an hourly basis, plus reimbursement of actual and necessary costs and expenses incurred by ArentFox Schiff.

19. In the event that the Committee retains a confidential expert witness, the fees and expenses will be included in ArentFox Schiff's request for reimbursement of its expenses.

20. The Committee reviewed this Application and the Angelich Declaration and believes that the retention and employment of ArentFox Schiff *nunc pro tunc* to December 15, 2022, is in the best interests of the Committee, the Debtors, the Debtors' estates and creditors. *Nunc pro tunc* relief should be granted since, immediately upon selection on December 15, 2022, ArentFox Schiff professionals began reviewing the numerous pleadings filed in these Chapter 11 Cases, as well as all publicly available information, in order to gain a comprehensive understanding of the Debtors' operations, debt structure and relationship with its secured creditor.

21. Beginning on December 15, 2022 and regularly thereafter, ArentFox Schiff attorneys corresponded via telephone and e-mail with the Debtors' professionals to further understand the facts and circumstances of these Chapter 11 Cases and discuss the Committee's issues and concerns with various pending matters. ArentFox Schiff has been active in negotiating resolutions, preparing pleadings, and appearing before this Court on the Committee's behalf. ArentFox Schiff professionals began to prepare its retention application and conducted its initial complex and substantial conflict and connections check in order to ensure its compliance with the Bankruptcy Code and requirements of Bankruptcy Rule 2014. Accordingly, the undersigned respectfully asserts that retention *nunc pro tunc* requested by this Application is appropriate.

22. No prior application has been made for the relief requested herein to this or any other Court.

**STATEMENT REGARDING U.S. TRUSTEE GUIDELINES**

23. ArentFox Schiff intends to make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the U.S. Trustee Guidelines both in connection with this Application and the interim and final fee applications to be filed by ArentFox Schiff in these Chapter 11 Cases.

24. The following information is provided in response to the request for additional information set forth in Paragraph D.1. of the U.S. Trustee Guidelines:

**Question:** Did you agree to any variations from, or alternatives to, your standard or customary billing arrangements for this engagement?

**Response:** No.

**Question** Do any of the professionals included in this engagement vary their rate based on the geographic location of the bankruptcy case?

**Response:** No.

**Question:** If you represented the client in the 12 months prepetition, disclose your billing rates and material financial terms for the prepetition engagement, including any adjustments during the 12 months prepetition. If your billing rates and material financial terms have changed postpetition, explain the difference and the reasons for the difference.

**Response:** Not applicable.

**Question:** Has your client approved your prospective budget and staffing plan, and, if so for what budget period?

**Response:** ArentFox Schiff expects to develop, and the Committee intends to review a prospective budget and staffing plan to reasonably comply with the U.S. Trustee's request for information and additional disclosures, as to which we reserve all rights.

**DISINTERESTEDNESS OF PROFESSIONAL**

25. To the best of the Committee's knowledge, information and belief, and except as otherwise set forth in the Angelich Declaration: (i) ArentFox Schiff does not hold or represent any interest adverse to the Committee in connection with these cases; (ii) ArentFox Schiff is a

“disinterested person” as that phrase is defined in section 101(14) of the Bankruptcy Code (as modified by section 1103(b) of the Bankruptcy Code); (iii) except as otherwise stated in the Angelich Declaration, neither ArentFox Schiff nor its professionals have any connection with the Debtors, its estates, or creditors; and (iv) ArentFox Schiff’s employment is necessary and in the best interest of the Debtors’ estates, its creditors and other parties-in-interest.

**NOTICE**

26. Notice of this Application has been given to: (a) the Debtors and their proposed counsel; (b) the United States Trustee for Region 3; (c) counsel to the Debtors’ prepetition secured lender; (d) counsel to the Debtors’ DIP Lender; and (e) any parties requesting service of all motions and pleadings pursuant to Bankruptcy Rule 2002. The Committee submits that, in light of the nature of the relief requested herein, no other or further notice is necessary. No previous application for the relief requested herein has been made to this or any other court.

**CONCLUSION**

WHEREFORE, the Committee respectfully requests that this Court approve the employment and retention of ArentFox Schiff as counsel to the Committee *nunc pro tunc* to December 15, 2022, enter an order approving the Application, and grant such other, further and different relief as is just and proper.

Dated: January 13, 2023  
Memphis, Tennessee

**THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF WINC, INC., *et al.***

By: /s/ John Pittman  
Committee Chair

John Pittman, Program Management Advisor,  
Strategic Revenue Programs at FedEx Corporate  
Services, Inc.